

## RACING AND GAMING COMMISSION[491]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)"b."**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 99D.7 and 99F.4, the Iowa Racing and Gaming Commission hereby gives Notice of Intended Action to amend Chapter 5, "Track, Gambling Structure, and Excursion Gambling Boat Licensees' Responsibilities," Chapter 6, "Occupational and Vendor Licensing," Chapter 10, "Thoroughbred and Quarter Horse Racing," Chapter 11, "Gambling Games," and Chapter 12, "Accounting and Cash Control," Iowa Administrative Code.

The proposed amendments are described below:

New subrule 5.4(7) sets forth the requirements for the video recording of gambling activities.

The amendments to paragraph "a" of subrule 5.4(8) are intended to improve its organization and to clarify that "year" means a calendar year.

The rescission of subrule 6.16(5) eliminates provisions for temporary licenses for horse owners.

New rule 491—6.28(99D) requires that the owner and the trainer be licensed by no later than the first post time of the race card for the day in which the horse is entered.

New paragraph "f" of subrule 10.6(2) prohibits a horse from being run on two consecutive calendar days.

Definitions of "discount rate," "present value" and "reserve" are set forth in rule 491—11.1(99F).

The amendments to subrule 11.12(8) remove the requirements for trustees relating to wide area progressive jackpots and establish a reserve.

New paragraph "e" of subrule 12.3(1) requires that a facility have an internal control relating to surveillance coverage.

New subrule 12.15(5) requires that a facility maintain a log of updates to computer systems connected to each slot machine.

Any person may make written suggestions or comments on the proposed amendments on or before September 2, 2008. Written material should be directed to the Racing and Gaming Commission, 717 E. Court, Suite B, Des Moines, Iowa 50309. Persons who wish to convey their views orally should contact the Commission office at (515)281-7352.

Also, there will be a public hearing on September 2, 2008, at 9 a.m. in the office of the Racing and Gaming Commission, 717 E. Court, Suite B, Des Moines, Iowa. Persons may present their views at the public hearing either orally or in writing.

These amendments are intended to implement Iowa Code chapters 99D and 99F.

The following amendments are proposed.

ITEM 1. Rescind subrule 5.4(7) and adopt the following **new** subrule in lieu thereof:

**5.4(7) Video recording.** Licensees shall conduct continuous surveillance with the capability of video recording all gambling activities under Iowa administrative rules 661—Chapter 141, promulgated by the department of public safety.

*a.* "Gambling activities" means participating in or wagering on gambling games on the gaming floor; the movement, storage, and handling of uncashed gambling revenues; manual exchange of moneys for forms of wagering credit on the gaming floor; entrance of the public onto the gaming floor; and any other activity as determined by the commission administrator or administrator's designee.

*b.* Commission and DCI representatives shall have unrestricted access to and use of, including independent access capabilities, both live and recorded views and images of the surveillance system.

c. A commission representative may allow a gambling game to be placed in operation pending approval under 661—Chapter 141.

ITEM 2. Amend paragraph 5.4(8)“a” as follows:

a. *Qualifying agreements.*

(1) All contracts and business arrangements entered into by a facility are subject to commission jurisdiction. Written and verbal contracts and business arrangements involving a related party or in which the term exceeds three years or the total value in a calendar year exceeds \$100,000 are agreements that qualify for submission to and approval by the commission. For the purpose of this subrule, a qualifying agreement shall be limited to:

(1) 1. Any obligation that expends, encumbers, or loans facility assets to anyone other than a not-for-profit entity or a unit of government for the payment of taxes or utilities.

(2) 2. Any disposal of facility assets or provision of goods and services at less than market value to anyone other than a not-for-profit entity or a unit of government.

(3) 3. A previously approved qualifying agreement, if consideration exceeds the approved amount in a calendar year by the greater of \$100,000 or 25 percent.

~~A qualifying agreement must be submitted within 30 days of execution. Commission approval must be obtained prior to implementation, unless the qualifying agreement contains a written clause stating that the agreement is subject to commission approval. Qualifying agreements that are ongoing or open-ended need only be submitted on initiation, unless there is a material change in terms or noncompliance with 5.4(8)“b”(4).~~

(4) 4. Any type of contract, regardless of value or term, where a third party provides electronic or mechanical access to cash or credit for a patron of the facility. The contract must contain a clause that provides for immediate notification and implementation when technology becomes available to allow a person to voluntarily bar the person’s access to receive cash or credit from such devices located on the licensed premises.

(2) A qualifying agreement must be submitted within 30 days of execution. Commission approval must be obtained prior to implementation, unless the qualifying agreement contains a written clause stating that the agreement is subject to commission approval. Qualifying agreements that are ongoing or open-ended need only be submitted on initiation, unless there is a material change in terms or noncompliance with 5.4(8)“b”(4).

ITEM 3. Rescind and reserve subrule 6.16(5).

ITEM 4. Adopt the following new rule 491—6.28(99D):

**491—6.28(99D) Time by which owner and trainer must be licensed.** The owner (includes stable names, partnerships, and corporations) and the trainer of a horse entered to race must both be licensed by the first post time of the race card for the day in which the horse is entered.

ITEM 5. Adopt the following new paragraph 10.6(2)“f”:

f. Consecutive days. No horse shall be run on two consecutive calendar days.

ITEM 6. Adopt the following new “Discount rate” “Present value” “Reserve” in rule **491—11.1(99F)**:

“Discount rate” means either the current prime rate as published in the Wall Street Journal or a blended rate computed by obtaining quotes for the purchase of qualified investments at least three times per month.

“Present value” means the current value of a future payment or series of payments, discounted using the discount rate.

“Reserve” means an account with an independent financial institution or brokerage firm consisting of cash and qualified investments used to satisfy periodic payments of prizes.

ITEM 7. Amend paragraphs 11.12(8)“i” 11.12(8)“j” as follows:

i. When a system jackpot is won, a person authorized to provide the multilink ~~and the trustee(s) provided for in paragraph “n,” subparagraph (1),~~ shall have the opportunity to inspect the machine,

EPROM, the error events received by the central system, and any other data which could reasonably be used to ascertain the validity of the jackpot.

(1) to (3) No change.

*j.* Any person authorized to provide a multilink must supply to the commission ~~and the trustee(s),~~ as requested, reports which support and verify the economic activity of the system.

(1) Any person authorized to provide a multilink must supply to the commission ~~and the trustee(s),~~ as requested, reports and information indicating the amount of, and basis for, the current system jackpot. Such reports may include an aggregate report and a detail report. The aggregate report may show only the balancing of the system with regard to systemwide totals. The detail report shall be in such form as to indicate for each machine, summarized by location, the coin-in totals as such terms are commonly understood in the industry.

(2) No change.

ITEM 8. Rescind paragraphs **11.12(8)“m”** to **“o”** and adopt the following new paragraphs in lieu thereof:

*m.* A facility, or an entity that is licensed as a manufacturer or distributor, shall provide the multilink, in accordance with a written agreement which shall be reviewed and approved by the commission prior to offering the jackpots.

*n.* The payment of any system jackpot offered on a multilink shall be administered by the person authorized to provide the multilink, and such person shall have primary liability for payment of any system jackpot the person administers. In addition, any facility shall have secondary liability for the payment of system jackpots won on a multilink in which the licensee is or was a participant if and to the extent that the person authorized to provide the multilink fails to make payment when due.

*o.* A person who is authorized to provide the multilink shall comply with the following:

(1) A reserve shall be established and maintained by the provider of the multilink in an amount of not less than the sum of the following amounts:

1. The present value of the aggregate remaining balances owed on all jackpots previously won by patrons on the multilink.

2. The present value of the amount currently reflected on the jackpot meters of the multilink.

3. The present value of one additional reset (start amount) of the multilink.

(2) The reserve shall continue to be maintained until all payments owed to winners of the system jackpots have been made.

(3) For system jackpots disbursed in periodic payments, any qualified investment shall be purchased within 90 days following notice of the win of the system jackpot, and a copy of such qualified investment will be provided to the commission office within 30 days of purchase. Any qualified investment shall have a surrender value at maturity, excluding any interest paid before the maturity date, equal to or greater than the value of the corresponding periodic jackpot payment, and shall have a maturity date prior to the date the periodic jackpot payment is required to be made.

(4) The person authorized to provide the multilink shall not be permitted to sell, trade, or otherwise dispose of any qualified investments prior to their maturity unless approval to do so is first obtained from the commission.

(5) Upon becoming aware of an event of noncompliance with the terms of the reserve requirement mandated by subparagraph (1) above, the person authorized to provide the multilink must immediately notify the commission of such event. An event of noncompliance includes a nonpayment of a jackpot periodic payment or a circumstance which may cause the person authorized to provide the multilink to be unable to fulfill, or which may otherwise impair the person's ability to satisfy, the person's jackpot payment obligations.

(6) On a quarterly basis, the person authorized to provide the multilink must deliver to the commission office a calculation of system reserves required under subparagraph (1) above. The calculation shall come with a certification of financial compliance signed by a duly authorized financial officer of the person authorized to provide the multilink, on a form prescribed by the commission, validating the calculation.

(7) The reserve required under subparagraph (1) must be examined by an independent certified public accountant according to procedures approved by the commission. Two copies of the report must be submitted to the commission office within 90 days after the conclusion of the fiscal year of the person authorized to provide the multilink.

ITEM 9. Adopt the following new paragraph **11.12(8)“p”**:

*p.* For system jackpots disbursed in periodic payments, subsequent to the date of the win, a winner may be offered the option to receive, in lieu of periodic payments, a discounted single cash payment in the form of a “qualified prize option,” as that term is defined in Section 451(h) of the Internal Revenue Code. The person authorized to provide the multilink shall calculate the single cash payment based on the discount rate. Until the new discount rate becomes effective, the discount rate selected by the person authorized to provide the multilink shall be used to calculate the single cash payment for all qualified prizes that occur subsequent to the date of the selected discount rate.

ITEM 10. Adopt the following new paragraph **12.3(1)“e”**:

*e.* Surveillance control governing the administration of the network for the purpose of utilizing and transmitting live or recorded views or images of a video surveillance system for asset protection, loss prevention, investigation of tort/liability claims, game protection, employee oversight, resolution of patron disputes, corporate governance, management analysis, or other use consistent with a licensee’s statutory responsibilities as approved by the administrator. Capabilities within the surveillance system for video recording of other areas of a facility and grounds may be included provided that commission and DCI access is unrestricted.

ITEM 11. Adopt the following new subrule 12.15(5):

**12.15(5)** The licensee shall maintain a current log, accessible to commission representatives, of all changes and updates made to the computer system. All changes and updates shall be approved as required by 491—subrule 11.4(1).